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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,640

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Raymond P. Silkaitis

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BRIAN R. WOODWORTH

275 N. FIELD DRIVE

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LAKE FOREST, IL 60045-2579

EXAMINER

SOREY, ROBERT A

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

06/09/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

BRIAN.WOODWORTH@HOSPIRA.COM

MICHAEL.CRABB@HOSPIRA.COM

HOSPIRA.DOCKET@CARDINAL-IP.COM

Office Action Summary	Application No. 10/783,640	Applicant(s) SILKAITIS ET AL.	
	Examiner ROBERT SOREY	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/13/2011</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. In the amendment filed 03/23/2011, the following occurred: claim 14, 19, and 21, were amended; claim 18 has been cancelled; and claim 24 has been added. Claims 14-17 and 19-24 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 14-17, 19, and 21-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over 2002/0038392 to De La Huerga in view of U.S. Patent 7,154,397 to Zerhusen.

4. As per claim 14, De La Huerga teaches a system for administering medication to a patient comprising:

--an infusion pump comprising: a pump housing (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by pump includes a housing),

--a processor that acts as a web server disposed in the pump housing, wherein the processor is configured to communicate with a web browser client device that is remote from the infusion pump (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by controller portion of the pump including a processor and accessible memory; and paragraph 149, is met by processor also linked to a communication channel 255

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such as an intranet or the Internet for communication with other facility or remote computing and storage devices - Fig. 17 shows this Internet communication channel 255 in direct communication with controller 260),

--*a unitary display located on the pump housing and in communication with the processor*, (Fig. 17 and 26)(see: De La Huerga, paragraph 145, 148, and 149, is met by display linked to the processor),

--*wherein the display comprises a first portion and, wherein the first portion is configured to display a pump information screen* (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173, is met by parameter settings displayed on pump screen; paragraph 152, is met by flow rate, duration, dose, and volume; and paragraph 164, is met by information being displayed on screen so that physician can visually confirm basic information (e.g., patient name, general physical characteristics)).

De La Huerga teaches a display with touch screen keys on a computer linked and associated with the pump (see: De La Huerga, paragraph 163), but does not specifically teach that the pump display is a *dual function touch screen*.

Additionally, De La Huerga teaches a processor in a intravenous pump linked to a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices (see: De La Huerga, paragraph 145 and 149), but does not specifically teach *a second portion, and wherein the second portion is configured to concurrently display a web browser screen*.

However, Zerhusen teaches a touch screen (see: Zerhusen, column 5, lines 54-67; and column 13, lines 42-59) with two portions displayed simultaneously (Fig. 43, first

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portion is met by ele. 630 and concurrently shown second portion is met by ele. 632)(see: Zerhusen, column 14, lines 3-12) and a second of which is configured to display an Internet icon that actuates a customized home page or other Internet connection and software including a browser for interfaces with the server and Internet (Fig. 43, ele. 658)(see: Zerhusen, column 14, lines 3-12; column 16, lines 40-47; column 34, lines 4-32; and column 35, lines 5-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of De La Huerga and Zerhusen. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, though it is not relied upon for the purposes of rejection because the prior art of De La Huerga and Zerhusen, as combined in this obviousness-type rejection, meet all of the claimed limitations, it is also noted that the arrangement of the data on the display is a matter of obviousness design choice in this particular instance. Additionally, that the client device is remote for the infusion pump is also a matter of design choice since the Internet and intranet are taught in the prior art and allow for communication of both local and remote distances. The arrangement of specific elements in the prior art need not be exactly the same as those presented in the claims. Section 2144.04 of the MPEP presents case law that sets legal precedent for supporting the rationale to reject based on design choice.

5. As per claim 15, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 14, and further teaches:

--wherein the pump information comprises a digital photo of a patient the infusion pump is currently associated with (Fig. 49)(see: Zerhusen, column 14, line 56 through column 15, line 3, is met by computer generating a screen that includes the patient's name, time, scheduled medication to give, schedule does to give, and methods of administration, an image or photo of the patient illustratively displayed to confirm that the patient is the correct patient).

6. As per claim 16, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 14, and further teach:

--wherein the pump information comprises pump monitor information (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173, is met by parameter settings displayed on pump screen; paragraph 152, is met by flow rate, duration, dose, and volume; and paragraph 164, is met by information being displayed on screen so that physician can visually confirm basic information (e.g., patient name, general physical characteristics).

7. As per claim 17, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 16, and further teach:

--wherein the pump monitor information includes infusion pump operating parameters selected from a group of infusion pump operating parameters consisting of dose, rate, duration and volume (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173, is met by parameter settings displayed on pump screen; and paragraph 152, is met by flow rate, duration, dose, and volume).

8. As per claim 19, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 14, and further teach:

--wherein the processor supplies the web browser client device with web browser information (Fig. 43, ele. 658)(see: Zerhusen, column 14, lines 3-12; column 16, lines 40-47; column 34, lines 4-32; and column 35, lines 5-20, is met by an Internet icon and a customized home page or other Internet connection being made, and a browser for interfacing with server and the Internet, software configured to provide internet access to websites).

9. As per claim 21, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 14, and further teach:

--wherein the processor supplies the web browser client device with pump information (see: Zerhusen, column 1, lines 25-43, is met by computer receiving automatically information from various monitors including IV pumps; column 6, lines 1-7, is met by treatment device connected to the computer; and column 36, line 25 through column 37, line 4, is met by patient record retrieval and input, patient physiological monitoring, and medication management).

10. As per claim 22, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 14, and further teach:

--a medication management unit in electronic communication with the infusion pump and having a processing unit and a storage medium coupled to the processing unit, the storage medium containing programming code executed by the processing unit to (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by controller portion of

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the pump including a processor and accessible memory; and 149, is met by processor also linked to a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices):

-store infusion pump operating parameters specific to a patient (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 152, is met by flow rate, duration, dose, and volume); and a digital photo of the patient in the storage medium (Fig. 49)(see: Zerhusen, column 14, line 56 through column 15, line 3, is met by computer generating a screen that includes the patient's name, time, scheduled medication to give, schedule does to give, and methods of administration, an image or photo of the patient illustratively displayed to confirm that the patient is the correct patient);

As per the limitations:

-transmit the infusion pump operating parameters specific to a patient and the digital photo of the patient from the medication management unit to the infusion pump; and

--wherein the processor of the infusion pump receives the infusion pump operating parameters specific to a patient and the digital photo of the patient from the medication management unit and displays the infusion pump operating parameters specific to a patient and the digital photo of the patient as pump information.

They are taught by the combination of De La Huerga and Zerhusen. De La Huerga teaches parameter settings displayed on pump screen including flow rate, duration, dose, and volume and information being displayed on screen so that

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physicians can visually confirm basic information (e.g., patient name, general physical characteristics)(Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173; paragraph 152; and paragraph 164). Zerhusen teaches a computer generating a screen that includes the patient's name, time, scheduled medication to give, schedule does to give, and methods of administration, an image or photo of the patient illustratively displayed to confirm that the patient is the correct patient (Fig. 49)(see: Zerhusen, column 14, line 56 through column 15, line 3).

11. As per claim 23, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 15, and further teach:

--wherein the digital photo of a patient the infusion pump is currently associated with is transmitted directly to the infusion pump by a patient identification indicator device located on the patient (see: Zerhusen, column 14, line 56 through column 15, line 3, is met by scanning patient wristband to receive patient identification and based thereon generates the patient information, including image or photo of the patient, for confirmation by the caregiver).

12. As per claim 24, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 14, and further teach:

--wherein the processor is configured to permit a remote web browser to associate with the infusion pump to configure the infusion pump (Fig. 17)(see: De La Huerga, paragraph 149, is met by processor also linked to a communication channel 255 such as an intranet or the Internet for communication with other facility or remote computing and storage devices - Fig. 17 shows this Internet communication channel

255 in direct communication with controller 260; and paragraph 208, is met by controller 260 is employed to control pump units for modifying mendicant delivery).

13. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over 2002/0038392 to De La Huerga in view of U.S. Patent 7,154,397 to Zerhusen further in view of U.S. Patent 6,208,974 to Campbell.

14. As per claim 20, De La Huerga and Zerhusen teach the invention as claimed, see discussion of claim 19, and as per the limitation:

--wherein the web browser information includes a caregiver task list.

De La Huerga teaches a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices (Fig. 17 and 26)(see: De La Huerga, paragraph 145; and 149) and Zerhusen teaches a customized home page or other Internet connection being made (Fig. 43, ele. 658)(see: Zerhusen, column 14, lines 3-12; column 16, lines 40-47; column 34, lines 4-32; and column 35, lines 5-20), but neither specifically teach information including *a caregiver task list*; however, Campbell teaches network access of by doctors and nurses of to-do lists (Fig. 11 and Fig. 12)(see: column 5, line 35 through column 6, line 27; column 19, lines 24-43; and column 25, lines 3-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of De La Huerga, Zerhusen, and Campbell. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the

same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Response to Arguments

15. Applicant's arguments from the response filed on 03/23/2011 have been fully considered and will be addressed below in the order in which they appeared.

16. In the remarks, Applicant argues in substance that (1) the 35 U.S.C. 112 rejections should be withdrawn in view of corrective amendments.

The rejections are withdrawn.

17. In the remarks, Applicant argues in substance that (2) the 35 U.S.C. 103(a) rejections should be withdrawn because "A processor that links to a communication channel such as the Internet for communication with other devices does not act as a "web server", but rather acts as a client of a web server. A web server is to be distinguished from a web client. One of ordinary skill in the art would readily recognize the distinction including that a web server delivers Internet content (e.g., web pages) to web clients. Claim 14 distinguishes between a "web server" and a "web browser client device" in that the "the processor is configured to communicate with a web browser client device that is remote from the infusion pump". De La Huerga does not describe or contemplate that the infusion pump may perform web server functions for client devices remote from the pump. The pump in De La Huerga that is connected to the Internet does not deliver Internet content to web clients, and thus, does not equate to a "web server".

The Examiner respectfully disagrees. Applicant's arguments are not persuasive. Microsoft Press Computer Dictionary Third Edition defines a web server as "On the internet or other network, a computer or program that responds to commands from a client. For example, a file server may contain an archive of data or program files; which a client submits a request for a file, the server transfers a copy of the file to the client". Applicant has not claimed a "web server" but has claimed a processor that "acts as a web server". This is because there is nothing particular about a server that distinguishes it from most clients except for its function. If a processor "acts as" a web server, then it is a web server. And just as Applicant's processor is a web server because it acts as a web server, so is the processor that is described in the prior art.

Applicant has claimed "web server" broadly and its common meaning has been applied. As exemplified in the above dictionary definition, a web server is defined by its function. Applicant's intended use of the web server is the same as the combination of De La Huerga and Zerhusen.

De La Huerga teaches that the processor on the infusion pump is linked to a communication channel 255 such as an intranet or the Internet for communication with other facility or remote computing and storage devices. Fig. 17 of De La Huerga shows this Internet communication channel 255 in direct communication with controller 260. Paragraph 207 and 208 of De La Huerga teaches that the controller 260 is employed to retrieve information from the pumps and control the pump units by modifying mendicant delivery. Hence, De La Huerga's pump unit including the processor act as a server and meet Applicant's broad limitation of web server.

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18. In the remarks, Applicant argues in substance that (3) the 35 U.S.C. 103(a) rejections should be withdrawn because "The combination of De La Huerga and Zerhusen does not describe an infusion pump comprising "a unitary dual function touch screen display located on the pump housing and in communication with the processor, wherein the dual function touch screen display comprises a first portion and a second portion, wherein the first portion is configured to display a pump information screen and wherein the second portion is configured to concurrently display a web browser screen," as recited in independent claim 14 and because "The combination of De La Huerga and Zerhusen does not describe an infusion pump comprising a display "wherein the first portion is configured to display a pump information screen and wherein the second portion is configured to concurrently display a web browser screen," as recited in independent claim 14".

The Examiner respectfully disagrees Applicant's arguments are not persuasive.

An explanation of the rejection: De La Huerga teaches a display with "first portions" as cited in Figures 17 and 18 and paragraphs 152, 164, and 173. The term "portion" is broadly interpreted and is met by the pump information areas displayed. De La Huerga also teaches touch screens linked and associated with the pump in paragraph 163 but does not teach that the display on the pump is a dual function touch screen or that the second portion is displayed on the dual function touch screen display, however, Zerhusen (Figure 43 and columns 5, 14, 16, 34, and 35) was used to cover the touch screen, the simultaneous display of two portions, and the content of the second portion (the web browser page being met by Internet icon and customized home

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page or other Internet connection being made). Obviously, the screen taught by Zerhusen is capable of presenting numerous portions. As summarized here, such limitations as broadly claimed by Applicant are met by the prior art as applied in the above rejection.

Additionally, though it is not relied upon for the purposes of rejection because the prior art of De La Hueriga and Zerhusen, as combined in the above obviousness-type rejection, meet all of the claimed limitations, it is also noted that the arrangement of the data on the display is a matter of obviousness design choice in this particular instance. The arrangement of specific elements in the prior art need not be exactly the same as those presented in the claims. Section 2144.04 of the MPEP presents case law that sets legal precedent for supporting the rationale to reject based on design choice.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- Microsoft, "Computer Dictionary, Third Edition", Microsoft Press, 1997, pgs. 430 and 506.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571)270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on (571) 272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Robert Morgan/
Supervisory Patent Examiner, Art
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/R. S./
Examiner, Art Unit 3626